701—107.12(422B) Computation of local option tax due from mixed sales on excursion boats. Particular difficulties exist in calculating the amount of local option sales tax due for sales occurring on an excursion gambling boat sailing into and out of jurisdictions imposing the local option sales tax. Ordinarily, local option sales tax is payable if tangible personal property is delivered under a contract for sale or if taxable services are rendered, furnished, or performed within that portion of a county where a tax is imposed. However, it can be quite difficult to determine if a moving excursion gambling boat is at any one point in time within or outside of a jurisdiction imposing the local option tax. Thus, it is difficult to determine if a delivery of property or provision of a service on the boat has occurred inside or outside of a local option tax jurisdiction. Because of this, the department will accept the use of any formula which rationally apportions the progress of an excursion gambling boat among jurisdictions which impose a local option tax and those that do not.

Below are four examples setting out two possible formulas for apportionment. Examples A and C utilize a "distance" formula for apportionment. Examples B and D utilize a "time" formula for apportionment. In Examples A and B, state sales tax is included in the sale price of the taxable items. In Examples C and D, state sales tax is added to taxable gross receipts. In all examples, local option sales tax is included in the sales price; also, for every example, it is assumed that the local option sales tax rate is 1 percent in every jurisdiction where it is imposed.

EXAMPLE A. The "Auric" is based in Clinton. Assume that during a particular cruise there occurs $10,000 worth of vending machine and nongambling game sales. State sales tax and local option tax must be included in the amounts charged for these vending machine and nongambling game sales. Assume that the Auric, on an ordinary cruise, travels round trip for 50 miles on the Mississippi River, 25 of those miles through waters which are part of a local option sales tax jurisdiction and 25 of those miles which are not. The amount of state sales tax due and the amount of local option sales tax due using a "distance" apportionment formula are determined as follows:

<div align="center">Computation of state sales tax due</div>

1. $10,000 ÷ 1.04 = $9,615.38
2. $10,000 — $9,615.38 = $384.62 = amount of state sales tax due

<div align="center">Computation of local option tax due</div>

1. $9,615.38 ÷ 1.01 = $9,520.18
2. $9,615.38 — $9,520.18 = $95.20
3. $95.20 × ½ = $ 47.60 = amount of local option sales tax due

EXAMPLE B. The gambling excursion boat "Blue Diamond" is based in Davenport. Assume that, as in Example A, during a particular cruise there occurs $10,000 worth of vending machine and nongambling game sales. Again, state sales tax and local option tax are included in the amounts charged for these vending machine and nongambling game sales. The Blue Diamond spends three hours on the water during an ordinary cruise. One hour is spent sailing in waters where no local option sales tax is imposed; two hours are spent in waters where the local option tax is imposed. In this case, the Blue Diamond's operator can use a formula based on time spent sailing inside and outside of a local option tax-imposing jurisdiction rather than distance traveled within and without such a jurisdiction as in Example A, so long as there is a reasonable amount of evidence to indicate that the formula reflects with some accuracy the ratio of nontaxable and taxable sales. In this case, all calculations are the same as those performed in Example A, except that the last calculation is performed as follows:

$95.20 × 2/3 = $63.40 = amount of local option sales tax due

EXAMPLE C. The excursion gambling boat "Golconda" is based in Dubuque, Iowa. On an ordinary cruise, it will travel a round trip of 50 miles on the Mississippi River. During 25 of those 50 miles the Golconda is passing through waters which are part of a local option sales tax jurisdiction. Assume that on one particular cruise, $100,000 in taxable gross receipts is collected on the boat. Local option sales tax is included in the $100,000 amount but not state sales tax. Thus, the total amount collected is $104,000; $100,000 in gross receipts, $4,000 in state sales tax. Local option tax is calculated as follows: Divide $100,000 by 1.01. This result is $99,009.90. Subtract this from $100,000 leaving $990.10. $990.10 is the amount of local option tax which would be due if all sales during the cruise had occurred in a jurisdiction

imposing a local option tax. Since only half the distance traveled was in a jurisdiction imposing the tax, $990.10 is multiplied by .5 to discover the amount of local option tax due ($495.05).

EXAMPLE D. The gambling excursion boat "Black Jack" is based in Davenport. Assume that during a particular cruise there is $150,000 in taxable gross receipts collected on the Black Jack. The full amount collected is $156,000; $6,000 in state sales tax and $150,000 in gross receipts. The Black Jack spends three hours on the water during an ordinary cruise. One hour is spent sailing in waters where no local option sales tax is imposed; two hours are spent in waters where the local option tax is imposed. In this case, as in Example B, the Black Jack's operator can use a formula based on time spent sailing inside and outside of a local option tax-imposing jurisdiction rather than distance traveled within and without such a jurisdiction so long as there is a reasonable amount of evidence to indicate that the formula reflects with some accuracy the ratio of nontaxable and taxable sales. In this example tax is computed as follows:

1. $150,000 ÷ 1.01 = $148,514.85
2. $150,000 — $148,514.85 = $1,485.15
3. $1,485.15 × 2/3 = $989.11 = amount of tax due

Upon beginning operation, a licensee may choose to employ either the "distance" method of apportionment set out in Examples A and C or the "time" method set out in B and D above without informing the department in advance of filing a sales tax return of its choice. A licensee cannot use both methods of apportionment. If a licensee commencing operation wishes to use another method of apportionment, the licensee must petition the department for permission to use this alternative method, and present whatever evidence the department shall rationally require that the alternative method better reflects the ratio of taxable to nontaxable sales before using the alternative method. Any licensee wishing to change from any existing method of apportionment to another method must also petition the department and receive permission to change its method of apportionment.

This rule is intended to implement Iowa Code sections 99F.10(6) and 422B.8.